

November 16, 1933
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Volume 9, Number 3
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The Los Angeles Bar Association **BULLETIN**

Official Publication of the Los Angeles Bar Association, Los Angeles, California

STATE BAR FILES INJUNCTION SUIT

NOVEMBER 16 MEETING

REGULATING ADMISSIONS TO PRACTICE

MICHIGAN BAR TAKES VIGOROUS ACTION

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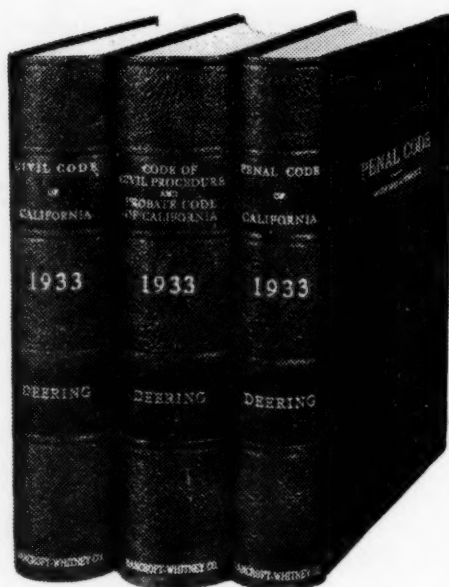
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State Bar Takes Decisive Action. Suit Against Security-First National Bank

IN A 37-PAGE COMPLAINT FOR INJUNCTIVE RELIEF, reciting numerous charges of practicing law, the Security-First National Bank of Los Angeles is made the defendant in a suit filed by the State Bar of California in the Superior Court at Los Angeles.

The complaint recites that the action is instituted at the direction of the Board of Governors, and that the plaintiff "now maintains the same in its own behalf, in behalf of the active members of the State Bar of California, and in behalf of the People of the State of California."

It is charged that the defendant, a banking corporation, for the past four years, a long time prior thereto, and now is, engaged in the practice of law in the nine southern counties of California, and that it "never has been and cannot be admitted or licensed by the courts of California, or any of them, to practice law."

INJURY TO PROPERTY RIGHTS.

After setting out in minute detail the acts of defendant which are alleged to constitute practice of law, the complaint charges that "the practice of law by defendant, as herein alleged, has injured the property rights of plaintiff, the active members of the State Bar of California, and the People of the State of California;" that such injury is not susceptible of admeasurement in money; that successive actions for damages would result in a multiplicity of suits, that "the practice of law by defendant, as alleged, is contrary to public policy and good morals," and that "plaintiff has no plain, speedy and/or adequate remedy in the premises, in the ordinary course of law." The prayer is for a permanent injunction, forever restraining defendant from practicing law.

SPECIFICATIONS CHARGED.

The complaint charges that:

"For four years last past, and for a long time prior thereto, the defendant has been, and now is, engaged in the practice of law in the Counties of Los Angeles, San Diego, Orange, Ventura, Santa Barbara, Riverside, San Bernardino, Fresno and San Luis Obispo, in the State of California; and in that behalf plaintiff alleges that during all said time defendant, repeatedly, systematically, and as a business:

"(a) Has appeared and now appears in the Superior Courts of the State of California, in and for the Counties of Los Angeles, San Diego, Orange, Ventura, Santa Barbara, Riverside, San Bernardino, Fresno and San Luis Obispo, by agents who are not active members of The State Bar of California, and presented and presents, through such agents, to said courts for approval, reports of its transactions as executor or administrator, and reports of its transactions as trustee under trusts created by will or by instrument executed during the lifetime of the trustor.

"Has appeared and now appears in the last mentioned courts, both by active members of The State Bar of California in its employ, and persons not active members or members of The State Bar of California in its employ, and obtained and obtains allowance of attorney fees by such courts, and applied and applies such fees to its own uses and purposes.

"(b) Has given and now gives advice and counsel, both orally and in writing, and partly orally and partly in writing, to third persons upon all phases of the law of conveyancing, taxation, and testamentary practice, including formal requisites of holographic wills; formal requisites of last wills and testaments not in the handwriting of testators; differences between specific and residuary legatees; canons of intestate succession; differences between testamentary disposition, and the transfer or conveyance of property upon trusts by deed or instrument in writing executed in one's lifetime; differences between custodian accounts and transfers upon trusts; rules governing inheritance of community property by children of spouses owning same; effects of births, deaths, marriages, divorces, and changes of residence upon testamentary dispositions made prior thereto; differences between law of marital property in Iowa and other common law states on the one hand, and California and other community property states on the other; effects of community property laws of California on personal property acquired outside of California by married persons moving into, and becoming residents of, California; differences between separate and community property under laws of California; methods of avoiding payment of federal income taxes by converting separate property into community property; methods of avoiding payment of federal income taxes by depositing life insurance policies with defendant upon trusts, substituting defendant as business manager of the family of the person depositing such policies for such person; methods of avoiding payment of federal income taxes of partnerships or close corporations by creating life insurance trusts naming defendant as trustee; methods of avoiding payment of state inheritance taxes, federal estate taxes and federal income taxes, by trans-

(Continued on Page 70)

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(City and County—Organized 1888)

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Collective Action of the Bar

THE FIRST STEP has been taken by the American Bar Association to bring about co-operation of the state and local bar associations throughout the country. At the recent meeting at Grand Rapids, a National Program was adopted. It is designed to center the attention of all lawyers upon a number of subjects, and to have the associations' committees consider them.

The subjects selected are:

1. Criminal Law and Its Enforcement.
2. Legal Education and Admission to the Bar.
3. Unauthorized Practice of Law.
4. Selection of Judges.

An executive committee has been named and the plan has been put into operation. Will Shafroth was appointed assistant to the president and has taken charge of the co-ordination activities. Appropriation of funds was made and a clearing house of information established in the Chicago office of the American Bar Association.

The importance of this movement to the profession cannot be overstated. It is certain to result in bringing about much needed reforms. While the number of subjects constituting the National Program is small in number, every one will recognize them as the most likely upon which the combined working energy of the bar associations of the country can be centralized.

Every lawyer who respects his profession and recognizes his duty to the public should lend support, through his local association, to the work of carrying out this great program.

In order that the bar of the entire country may know something about the progress of the plan, the "clearing house of information" will furnish articles of interest and merit by lawyers of recognized reputation for publication in local bar periodicals, from month to month, and also a "digest" of what is being done by associations throughout the country to further the program.

WATCH THE BULLETIN FOR THESE ARTICLES.

Nominating Committee of Fifteen to be Elected at November Meeting

THURSDAY, NOVEMBER 16, promises to be a red letter day in the Los Angeles Bar Association's history. It will mark the inauguration of a new method of selecting the nominating committee that will nominate the officers and trustees in the future.

The members present at this meeting, which will be held at the University Club, will elect the nominating committee by ballot. Candidates for the nominating committee will be nominated from the floor, and no member can nominate more than two candidates. There will be a large attendance and members should make their reservations early. It promises to be an interesting occasion.

The latest amendment to the By-laws, providing for a nominating committee of fifteen, and the manner of election, is as follows:

"Section 2. Nominating Committee.—A nominating committee consisting of fifteen members of the Association shall be elected at the regular monthly meeting of the Association held in November in each year. Candidates for the nominating committee shall be nominated from the floor at said meeting, and not otherwise. No member of the Association shall be entitled to nominate more than two (2) candidates for the nominating committee. After nominations of members for said committee have been closed the members of the Association present at said meeting shall by ballot vote upon those nominated, and the fifteen having the high-

est number of votes shall thereupon constitute the nominating committee. Said nominating committee shall meet upon the call of the secretary of the Association prior to December 1st of said year, shall select its own chairman, and shall nominate one member of the Association for each of the offices of president, senior vice-president, and junior vice-president, and one member of the Association for each position of trustee to be filled at the election. The report of the nominating committee stating the names of the persons so nominated for the respective offices shall be forwarded to the secretary of the Association and shall be by him posted on the bulletin board of the County Law Library on or before December 5th of said year."

The Judges Will Rule

REMEMBER, the big meeting of the members of the Bar Association on Thursday, November 16, will be in charge of the judges of the Superior Court. That ought to be enough to keep you down town that evening for dinner at the University Club.

But "you ain't heard nothing yet!" That is the night the members will elect a nominating committee of fifteen, who in turn will name the ticket of officers and trustees for 1934. Can you imagine the fun of balloting for about 30 candidates? Mark the date on your office calendar and send in your reservations in advance.



In 1359 life insurance trusts, Bank of America is *acting as trustee*

As depositary under order of court for personal assets of estates in probate, Bank of America affords a helpful service which effects a material economy in estate administration. See Section 93, Bank Act.

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Proposed Rules Regulating Admission to Practice

AT THE MEETING of the State Bar of California in Del Monte on September 21st, a committee appointed by the president to consider the survey of legal education and admission to the bar made by Professor H. C. Horack and Will Shafroth made the following recommendations, which were unanimously adopted:

"1. That the Board of Governors adopt, and recommend to the Supreme Court that it approve, amendments to the Rules Regulating Admissions to Practice, so as to provide:

"(a) That students be required to register with The State Bar before beginning the study of law, subject to the power of the Committee of Bar Examiners to make such exceptions as may be necessary so that no injustice would be done;

"(b) That, beginning in the summer of 1935, The State Bar require all first-year students, subject to like exceptions, to take an examination in first-year law subjects, unless the students take their first-year work in a law school that is approved by the Committee of Bar Examiners.

"(c) That, whether or not a California law school shall be approved by the Committee of Bar Examiners shall depend upon the showing made by its students in our bar examinations, according to the statistics, the publication of which is now provided for in the Rules; that the test shall be whether at least 60 per cent of such students taking the examination for the first time pass, and that such percentage be based upon the examinations given in 1934, and thereafter, such statistics to be cumulated until they cover three years, and then to be based upon the last preceding three years' records;

"(d) That appropriate provision be made for approving out-of-state law schools, either on the basis of the American Bar Association's approved list or otherwise;

"(e) That each student taking the first year examination be required to pay such a fee, to be fixed in the Rules, as may be necessary to defray the cost of such examination;

"2. That the fixing of a 60 per cent basis for the approval of law schools be not regarded as the adoption of a permanent policy, but that it be the aim of The State Bar to gradually raise this requirement after the law schools have been given a reasonable opportunity to raise their standards."

For the full report of the committee, see part two of the September, 1933, number of The State Bar Journal of California, page 9.

The recommendation of an examination to be taken at the end of the first year of law study by all students except those from law schools approved by the Board is unique and constitutes a new method of approach to this problem. The basis of approval of law schools by the Board upon their percentage of success in bar examinations is also something which has never before been adopted by a Bar Examining Board.

American Bar Association National Program

DURING the next six months the American Bar Association will furnish bar periodicals throughout the country with a series of five articles by lawyers of national reputation in furtherance of the National Program. These articles will not appear in *American Bar Association Journal*.

One of the articles by Silas Strawn is promised by December 1, and another by John J. Jackson, of New York, Chairman of the Committee on Unauthorized Practice before January 1st.

These articles will appear in THE BULLETIN when received. All local bar publications are asked to print the series of articles "to get the lawyers of the whole country thinking about them," as Mr. Will Shafroth, Assistant to the President of the American Bar Association expresses it.

Vigorous Action Taken in Michigan Against Unauthorized Practice

SOME TIME AGO the Detroit Bar Association filed a complaint to enjoin the American Life Insurance Company from practicing law. *Ex parte* injunction was granted by a Circuit judge. Defendant filed an answer admitting that it furnish specimen copies and suggested instruments to carry out post mortem plans proposed for customers, but denied that this constituted the practice of law. Plaintiffs filed a reply to the new matter.

Later, defendant filed motion to strike the reply, which was denied. Plaintiffs then caused a subpoena *duces tecum* to be issued, requiring defendant's officers to produce its records showing legal documents drafted by defendant. Motion to quash the subpoena *duces tecum* was made and extended arguments were heard. Defendant declined the offer of plaintiffs' attorneys to examine the records at defendant's office, and the court offered defendant opportunity to submit records relating to particular cases so as to obviate the necessity of producing all the records and authorized defendant to submit an affidavit in lieu of certain corporate records. Defendant declined to comply, except as to the corporation's minutes. The motion to quash the subpoena *duces tecum* was then denied.

Defendant then applied to the Supreme Court of Michigan for leave to appeal from the orders on both motions. The court denied the motion to appeal from the first order, but granted the motion for leave to appeal from the order regarding the subpoena, the appeal to be heard on the motion docket. The Supreme Court affirmed the order denying the motion to quash. The case was put on the trial calendar to set a date on October 16.

OTHER CASES PENDING.

Suit was also instituted by the Bar Association and individual members of its committee respectively against Detroit Trust Company and its Conservator, Union Guardian Trust Company and its Conservator; also against Meyer Jewelry Company and one of its employees doing business as the Reliance Legal Agency of America for the purpose of handling the company's collections.

Contempt proceedings were brought recently by the same committee of the Detroit Bar Association against a layman who appeared before the Court Commissioner in an action brought by a real estate agent to forfeit a land contract.

Complaints against notaries public for illegal practice are now under consideration by the committee.

Junior Barrister Activities

By George Keefer

MEMBERS of the Junior Barristers and the Fellowship Section of the County Medical Association met together at the Mona Lisa Restaurant on November 8th for an evening of comedy, comestibles, and comradeship. President Jack W. Hardy of the young lawyers and President Harold Crowe of the young doctors served as joint toastmasters and presented a program of varied and pertinent interest. Principal speakers for the evening were Byron C. Hanna, Esq., and J. A. Alesen, M. D., while a burlesque radio broadcast by Jimmy Lloyd and George Keefer gave the attorneys and physicians something to laugh at besides each other. The hand of Phil Davis could faintly be seen in the arrangement of entertainment. The meeting was honored by the presence of the Board of Trustees of the L. A. Bar Association and several old-timer saw-bones.

Chairman William Howard Nicholas of the Legal Article Competition Committee announces that the closing date of the contest is November 15, 1933, and that the judges have been selected. Attorney Oscar Lawlor and Professor Robert Kingsley are the arbiters already chosen and they will agree upon a third judge. Results will be announced in the next issue of THE BULLETIN.

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Canons of Ethics of the Los Angeles Bar Association

THE CANONS OF ETHICS of the American Bar Association, are the canons of the Los Angeles Bar Association. As new canons are adopted by the American Bar Association, they automatically become the canons of the Los Angeles Bar Association, by reason of Article IX of the latter's Constitution.

It is more than ten years since the Canons were published for the information and guidance of the members of the Los Angeles Bar Association. Since the last publication, 13 new canons have been adopted by the American Bar Association. THE BULLETIN prints below the complete Canons of Ethics as they stand today, believing that many members will want to preserve them in this permanent form.

I. PREAMBLE.

In America, where the stability of courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system for establishing and dispensing justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of the republic, to a great extent, depends upon our maintenance of justice pure and unsullied. It cannot be so maintained unless the conduct and the motives of the members of our profession are such as to merit the approval of all just men.

II. THE CANONS OF ETHICS.

No code or set of rules can be framed which will particularize all the duties of the lawyer in the varying phases of litigation or in all the relations of professional life. The following canons of ethics are adopted by the Los Angeles Bar Association as a general guide, yet the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned:

1. The Duty of the Lawyer to the Courts.

It is the duty of the lawyer to maintain towards the Courts, a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance. Judges not being wholly free to defend themselves, are peculiarly entitled to receive the support of the Bar against un-

just criticism and clamor. Whenever there is proper ground for serious complaint of a judicial officer, it is the right and duty of the lawyer to submit his grievances to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them should be protected.

2. The Selection of Judges.

It is the duty of the Bar to endeavor to prevent political considerations from outweighing judicial fitness in the selection of Judges. It should protest earnestly and actively against the appointment or election of those who are unsuitable for the Bench; and it should strive to have elevated thereto only those willing to forego other employments, whether of a business, political or other character, which may embarrass their free and fair consideration of questions before them for decision. The aspiration of lawyers for judicial position should be governed by an impartial estimate of their ability to add honor to the office and not by a desire for the distinction the position may bring to themselves.

3. Attempts to Exert Personal Influence on the Court.

Marked attention and unusual hospitality on the part of a lawyer to a Judge, uncalled for by the personal relations of the parties, subject both the Judge and the lawyer to misconstructions of motive and should be avoided. A lawyer should not communicate or argue privately with the Judge as to the merits of a pending cause, and he deserves rebuke and denunciation for any device or attempt to gain from a Judge special personal consideration or favor. A self-respecting independence in the dis-

charge of professional duty, without denial or diminution of the courtesy and respect due the Judge's station, is the only proper foundation for cordial personal and official relations between Bench and Bar.

4. When Counsel for an Indigent Prisoner.

A lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason, and should always exert his best efforts in his behalf.

5. The Defense or Prosecution of Those Accused of Crime.

It is the right of the lawyer to undertake the defense of a person accused of crime, regardless of his personal opinion as to the guilt of the accused; otherwise innocent persons victims only of suspicious circumstances, might be denied proper defense. Having undertaken such defense, the lawyer is bound by all fair and honorable means, to present every defense that the law of the land permits, to the end that no person may be deprived of life or liberty but by due process of law.

The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done. The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible.

6. Adverse Influences and Conflicting Interests.

It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of counsel.

It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interests of the client with respect to which confidence has been reposed.

7. Professional Colleagues and Conflicts of Opinion.

A client's proffer of assistance of additional counsel should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client. A lawyer should decline association as colleague if it is objectionable to the original counsel, but if the lawyer first retained is relieved, another may come into the case.

When lawyers jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to him for his final determination. His decision should be accepted unless the nature of the difference makes it impracticable for the lawyer whose judgment has been overruled to co-operate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the business of another lawyer, are unworthy of those who should be brethren at the Bar; but nevertheless it is the right of any lawyer, without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful counsel, generally after communication with the lawyer of whom the complaint is made.

8. Advising Upon the Merits of a Client's Cause.

A lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. The miscarriages to which justice is subject, by reason of surprises and disappointments in evidence and witnesses, and through mistakes of juries and errors of Courts, even though only occasional, admonish lawyers to beware of bold and confident assurances to clients, especially where the employment may depend upon such assurance. Whenever the controversy will admit of fair adjustment, the client should be advised to avoid or to end the litigation.

9. Negotiations With Opposite Party.

A lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel. It is incumbent upon the lawyer most particu-

larly to avoid everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law.

10. Acquiring Interest in Litigation.

The lawyer should not purchase any interest in the subject matter of the litigation which he is conducting.

11. Dealing With Trust Property.

Money of the client or other trust property coming into the possession of the lawyer should be reported promptly, and except with the client's knowledge and consent should not be commingled with his private property or be used by him.

12. Fixing the Amount of the Fee.

In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.

In determining the amount of the fee, it is proper to consider (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other business while employed in the particular case, or antagonisms with other clients; (3) the customary charges of the Bar for similar services; (4) the amount involved in the controversy and the benefits resulting to the client from the services; (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in itself is controlling. They are mere guides in ascertaining the real value of the service.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

13. Contingent Fees.

Contingent Fees, where sanctioned by law, should be under the supervision of the Court, in order that clients may be protected from unjust charges.

14. Suing a Client for a Fee.

Controversies with clients concerning compensation are to be avoided by the lawyer so far as shall be compatible with his self respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

15. How Far a Lawyer May Go in Supporting a Client's Cause.

Nothing operates more certainly to create or to foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties, than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

The lawyer owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of judicial disfavor or public unpopularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicanery. He must obey his own conscience and not that of his client.

16. Restraining Clients From Improperities.

A lawyer should use his best efforts to restrain and to prevent his clients from doing those things which the lawyer himself

ought not to do, particularly with reference to their conduct towards Courts, judicial officers, jurors, witnesses and suitors. If a client persists in such wrongdoing the lawyer should terminate their relation.

17. Ill-Feeling and Personalities Between Advocates.

Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence counsel in their conduct and demeanor toward each other or toward suitors in the case. All personalities between counsel should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or personal peculiarities and idiosyncrasies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided.

18. Treatment of Witnesses and Litigants.

A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence of prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

19. Appearance of a Lawyer as Witness for His Client.

When a lawyer is witness for his client, except as to merely formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in Court in behalf of his client.

20. Newspaper Discussion of Pending Litigation.

Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the courts and otherwise prejudice the due administration of justice. Generally they are to be condemned. If the extreme circumstances of a particular case justify a statement to the public, it is unprofessional to make it anonymously. An *ex parte* reference to the facts should not go beyond quotation from the records and papers on file in the

Court; but even in extreme cases it is better to avoid any *ex parte* statement.

21. Punctuality and Expedition.

It is the duty of the lawyer, not only to his client, but also to the Courts and to the public, to be punctual in attendance, and to be concise and direct in the trial and disposition of causes.

22. Candor and Fairness.

The conduct of the lawyer before the Court and with other lawyers should be characterized by candor and fairness.

It is not candid or fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel or the language of a decision or a textbook; or with knowledge of its invalidity to cite as authority a decision that has been overruled, or a statute that has been repealed; or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents and in the presentation of causes.

A lawyer should not offer evidence which he knows the Court should reject in order to get the same before the jury by argument for its admissibility, nor should he address to the Judge arguments upon any point not properly calling for determination by him. Neither should he introduce into an argument, addressed to the Court, remarks or statements intended to influence the jury or bystanders.

These and all kindred practices are unprofessional and unworthy of an officer of the law charged, as is the lawyer, with the duty of aiding in the administration of justice.

23. Attitude Toward Jury.

All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument should be made to the Court out of the jury's hearing. A lawyer must never converse privately with jurors about the case

and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause.

24. Right of Lawyer to Control the Incidents of the Trial.

As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite lawyer to trial when he is under affliction or bereavement; forcing the trial on a particular day to the injury of the opposite lawyer when no harm will result from a trial at a different time; agreeing to an extension of time for signing a bill of exceptions, cross-interrogatories and the like, the lawyer must be allowed to judge. In such matters no client has a right to demand that his counsel shall be illiberal, or that he do anything therein repugnant to his own sense of honor and propriety.

25. Taking Technical Advantage of Opposite Counsel; Agreements With Him.

A lawyer should not ignore known customs or practice of the Bar or of a particular Court, even when the law permits, without giving timely notice to the opposing counsel. As far as possible, important agreements affecting the rights of clients, should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing, as required by rules of Court.

26. Professional Advocacy Other Than Before Courts.

A lawyer openly, and in his true character, may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of government, upon the same principles of ethics which justify his appearance before the Courts; but it is unprofessional for a lawyer so engaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed to the reason and understanding to influence action.

27. Advertising, Direct or Indirect.

The most worthy and effective advertisement possible, even for a young lawyer, and especially with his brother lawyers, is the establishment of a well-merited reputation for professional capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary

simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not *per se* improper. But solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional.

It is equally unprofessional to procure business by indirection through touters of any kind, whether allied real estate firms or trust companies advertising to secure the drawing of deeds or wills or offering retainers in exchange for executorships or trusteeships to be influenced by the lawyer. Indirect advertisement for business by furnishing or inspiring newspaper comments concerning causes in which the lawyer has been or is engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the lawyer's positions, and all other like self-laudation, defy the traditions and lower the tone of our high calling, and are intolerable.

28. Stirring Up Litigation, Directly or Through Agents.

It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit or collect judgment, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital attaches or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the ignorant or others, to seek his professional services. A duty to the public and to the profession devolves upon every member of the Bar having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disbarred.

29. Upholding the Honor of the Profession.

Lawyers should expose without fear or favor before the proper tribunals corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the Bar who has wronged his client. The counsel upon the trial of a cause in which perjury has been committed owe it to the profession and to the public to bring the matter to the knowledge of the prosecuting authorities. The lawyer should aid in guarding the Bar against the admission to the profession of candidates unfit or unqualified because deficient in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only the law but the administration of justice.

30. Justifiable and Unjustifiable Litigations.

The lawyer must decline to conduct a civil cause or to make a defense when convinced that it is intended merely to harass or to injure the opposite party or to work oppression or wrong. But otherwise it is his right, and having accepted retainer, it becomes his duty to insist upon the judgment of the Court as to the legal merits of his client's claim. His appearance in Court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination.

31. Responsibility for Litigation.

No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. Every lawyer upon his own responsibility must decide what business he will accept as counsel, what causes he will bring into Court for plaintiffs, what cases he will contest in Court for defendants. The responsibility for advising as to questionable transactions, for bringing questionable suits, for urging questionable defenses, is the lawyer's responsibility. He cannot escape it by urging as an excuse that he is only following his client's instructions.

32. The Lawyer's Duty in Its Last Analysis.

No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is entitled to receive, nor should any lawyer render any service or advice involving disloyalty to the law whose ministers we are, or disrespect

of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

33. Partnerships—Names.

Partnerships among lawyers for the practice of their profession are very common and are not to be condemned. Certain courts require that lawyers practicing before them shall appear individually and not as members of partnerships. In the formation of partnerships care should be taken not to violate any law locally applicable; and where partnerships are formed and permitted between lawyers who are not all admitted to practice in the local courts, care should also be taken to avoid any misleading name or representation which would create a false impression as to the professional position or privileges of the member not locally admitted. In the formation of partnerships for the practice of law, no person should be admitted who is not a member of the legal profession, duly authorized to practice, and amenable to professional discipline. No person should be held out as a practitioner or member who is not so admitted. In the selection and use of a firm name, one not admitted to practice in the local courts should not be named, lest such use of his name should mislead as to his professional position or privileges. And no false or assumed or trade name should be used to disguise the practitioner or his partnership. The continued use of the name of

a deceased or former partner is or may be permissible by local custom, but care should be taken that no imposition or deception is practiced through this use. If a member of the firm becomes a judge, his name should not be continued in the firm name, as it naturally creates the impression that an improper relation or influence is continued or possessed by the firm.

Partnerships between lawyers and members of other professions or non-professional persons should not be formed or permitted where a part of the partnership business consists of the practice of law.

34. Division of Fees.

No division of fees for legal services is proper, except with another lawyer, based upon a division of service or responsibility. But the established custom of sharing commissions at a commonly accepted rate, upon collections of commercial claims between forwarder and receiver, though one be a lawyer and the other not (being a compensation for valuable services rendered by each), is not condemned hereby, where it is not prohibited by statute.

35. Intermediaries.

The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer. A lawyer's responsibilities and qualifications are individual. He should avoid all relations which direct the performance of his duties in the interest of such intermediary. A lawyer's relation to his client should be personal, and the responsibility should be direct to the client. Charitable societies rendering aid to the indigent are not deemed such intermediaries.

A lawyer may accept employment from any organization, such as an association, club or trade organization, to render legal services in any matter in which the organization, as an entity, is interested, but this employment should not include the rendering of legal services to the members of such an organization in respect to their individual affairs.

The established custom of receiving commercial collections through a lay agency is not condemned hereby.

36. Retirement from Judicial Position or Public Employment.

A lawyer should not accept employment as an advocate in any matter upon the merits of which he has previously acted in a judicial capacity.

A lawyer, having once held public office or having been in the public employ, should not after his retirement accept employment in connection with any matter which he has investigated or passed upon while in such office or employ.

37. Confidences of a Client.

The duty to preserve his client's confidences outlasts the lawyer's employment, and extends as well to his employees; and neither of them should accept employment which involves the disclosure or use of these confidences, either for the private advantage of the lawyer or his employees or to the disadvantage of the client, without his knowledge and consent, and even though there are other available sources of such information. A lawyer should not continue employment when he discovers that this obligation prevents the performance of his full duty to his former or to his new client.

If a lawyer is falsely accused by his client, he is not precluded from disclosing the truth in respect to the false accusation. The announced intention of a client to commit a crime is not included within the confidences which he is bound to respect. He may properly make such disclosures as to prevent the act or protect those against whom it is threatened.

38. Compensation, Commissions and Rebates.

A lawyer should accept no compensation, commissions, rebates or other advantages from others without the knowledge and consent of his client after full disclosure.

39. Witnesses.

Compensation demanded or received by any witness in excess of statutory allowances should be disclosed to the court and adverse counsel. If the ascertainment of truth requires that a lawyer should seek information from one connected with or reputed to be biased in favor of an adverse party, he is not thereby deterred from seeking to ascertain the truth from such person in the interest of his client.

40. Newspapers.

A lawyer may with propriety write articles for publications in which he gives

information upon the law; but he should not accept employment from such publications to advise inquirers in respect to their individual rights.

41. Discovery of Imposition and Deception.

When a lawyer discovers that some fraud or deception has been practiced, which has unjustly imposed upon the court or a party, he should endeavor to rectify it; at first by advising his client, and if his client refuses to forego the advantage thus unjustly gained, he should promptly inform the injured person or his counsel, so that they may take appropriate steps.

42. Expenses.

A lawyer may not properly agree with a client that the lawyer shall pay or bear the expenses of litigation; he may in good faith advance expenses as a matter of convenience, but subject to reimbursement.

43. Professional Card.

The simple professional card mentioned in Canon 27 may with propriety contain only a statement of his name (and those of his lawyer associates), profession, address, telephone number, and special branch of the profession practiced. The insertion of such card in reputable law lists is not condemned and it may there give references or name clients for whom the lawyer is counsel, with their permission.

44. Withdrawal From Employment as Attorney or Counsel.

The right of an attorney or counsel to withdraw from employment, once assumed, arises only from good cause. Even the desire or consent of the client is not always sufficient. The lawyer should not throw up the unfinished task to the detriment of his client except for reasons of honor or self-respect. If the client insists upon an unjust or immoral course in the conduct of his case, or if he persists over the attorney's remonstrance in presenting frivolous defenses, or if he deliberately disregards an agreement or obligation as to fees or expenses, the lawyer may be warranted in withdrawing on due notice to the client, allowing him time to employ another lawyer. So also when a lawyer discovers that his client has no case and the client is determined to continue it; or even if the lawyer finds himself incapable of conducting the case effectively. Sundry other instances may arise in which withdrawal is to be justified. Upon with-

drawing from a case after a retainer has been paid, the attorney should refund such part of the retainer as has not been clearly earned.

45. Specialists.

The canons of the American Bar Association apply to all branches of the legal profession; specialists in particular branches are not to be considered as exempt from the application of these principles.

III.

OATH OF ADMISSION.

The general principles which should ever control the lawyer in the practice of his profession are clearly set forth in the following Oath of Admission to the Bar formulated upon that in use in the State of Washington, and which conforms in its main outlines to the "duties" of lawyers as defined by statutory enactments in that and many other states of the Union—duties which they are sworn on admission to obey and for the wilful violation of which disbarment is provided:

I Do SOLEMNLY SWEAR:

I will support the Constitution of the United States and the Constitution of the State of..... I will maintain the respect due to Courts of Justice and judicial officers.

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the Judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval;

I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject from any consideration personal to myself the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. So HELP ME GOD.

Cleveland Bar Association Committee on Methods of Selecting the Judiciary

SECTION 1. The Governor shall appoint, subject to confirmation by the Senate, the chief justice and all judges of the Supreme Court, and all judges of the courts of appeals, courts of common pleas, courts of probate and other courts of record now or hereafter established by law, but the chief justice and judges of said courts now in office shall continue therein until the end of the terms for which they were respectively elected, unless they are removed, die or resign.

Every person so appointed shall have been admitted to practice as an attorney and counselor-at-law in this state and shall have such other qualifications as may be provided by law.

Sec. 2. When a judicial office to be filled by appointment becomes vacant, the Governor shall certify such fact to the Judicial Council herein created. Within 30 days after such certification is received the Judicial Council shall submit to the Governor the names and qualifications of not more than five persons whom the Council deems qualified to hold such office. The Governor may make the appointment from the names so submitted, or may appoint any other qualified person, but shall not make any appointment until the Council shall have made its recommendations or until the expiration of said 30-day period.

Sec. 3. The Judicial Council shall consist of the Chief Justice of the Supreme Court, who shall be the chairman, one judge of the courts of appeals, one judge of the courts of common pleas, one judge of the courts of probate and one judge representing other courts of record established by law, and three attorneys at law not holding judicial office. Each of the judges, excepting the Chief Justice of the Supreme Court, shall be elected at an annual state meeting of the judges of each of these courts. Attorneys at law shall be appointed by the Governor. The term of

service for each member, except the Chief Justice, shall be 3 years and no member shall serve two successive terms. The Chief Justice shall serve so long as he holds office as Chief Justice of the Supreme Court.

Sec. 4. The Chief Justice of the Supreme Court and all judges appointed by the Governor shall hold office during good behavior, unless removed or retired in the manner provided for in or authorized by the Constitution.

At the first general election occurring after a judge has served 6 years following his appointment, and at the general election occurring every sixth year thereafter so long as such judge remains in office, his name shall be placed on a separate judicial ballot in the judicial district for which he was appointed with the number of years of his service stated and with the question, "Shall this judge be retained in office?" If a number of voters equal to a majority of all those voting in such district at such general election shall vote in the negative on the question, such judge shall be retired from office immediately and the same shall be declared vacant; otherwise such judge shall continue in office under the provisions hereof. These provisions likewise apply to the Chief Justice of the Supreme Court.

Sec. 5. If a judicial office to be filled by appointment becomes vacant while the Senate is not in session, the Governor shall fill such judicial vacancy by appointment as herein provided, and shall submit such appointment to the Senate either in regular session, or in special session which the Governor is hereby authorized to call for the purpose of confirming judicial appointments.

Sec. 6. Laws shall be passed providing for the retirement of the Chief Justice of the Supreme Court and of judges of all courts of record and for the compensation to be paid during such retirement.

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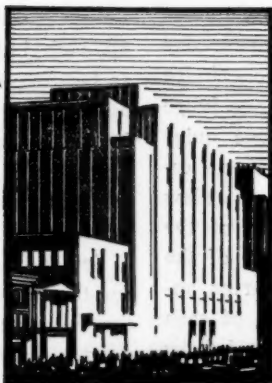
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In Memoriam—Walter Edmund Burke

WALTER EDMUND BURKE, one of the best known and most beloved members of the bar of this county, departed this life on August 17, 1933. Born in Syracuse, New York, on the 25th day of September, 1890, he came to Los Angeles with his parents, Edmund Burke and Anna W. Burke, and his sister, Villa Marie, in the year 1898. He was educated in the Los Angeles schools, being a member of the track team of the Los Angeles High School. He received his legal education in the law department of the University of Southern California. He was admitted to the bar of California in the year 1913, to the Supreme Court of the United States in the year 1925.

Beneath his ability as a lawyer lay a deep-seated devotion to all that is best in his profession. He regarded the right to practice law as a high privilege—not a mere pathway to fame or fortune, but as a commission as an officer of the court to give of his talents and his labor to help balance the scales of justice. In the quest of what he conceived to be the right he went forward fearlessly but he advocated no cause beyond the demands of justice. He was in all things a man of his word, honorable, dependable and scrupulously just.

NOW THEREFORE BE IT RESOLVED, that we of the Los Angeles Bar Association, with a keen sense of personal loss in the death of our beloved fellow member and friend, pay tribute to the life, deeds and sterling worth of Walter Edmund Burke; that we express our deep appreciation of his honorable character, his invaluable service to the Los Angeles Bar Association and to this community, and that we extend our tenderest sympathy to his bereaved mother and sister.

The world is better because Walter Edmund Burke lived in it!

BE IT FURTHER RESOLVED, that a copy of these resolutions be spread upon the minutes of the Los Angeles Bar Association and of the Superior Court of the State of California, in and for the County of Los Angeles, and that the same be sent to the family of the deceased.

CLEMENT L. SHINN, Chairman.

CLEMENT D. NYE,

EARLE M. DANIELS,

Association Committee of Los Angeles Bar

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Louis Reed Works—Memorial

Death's hand, wherever laid, is heavy, and when too early it falls upon one whose life has been of conspicuous usefulness and generous service, it causes deep regret and poignant sorrow, not only to his family and friends, but to the community in which he served, and justifies a proper public expression of esteem and sorrow.

Recently this inexorable hand removed from our midst a splendid citizen and most useful jurist; one loved by all who knew him, and who had fairly won and held the admiration and high esteem of his community and State—the Honorable Lewis R. Works—student, author, advocate, legislator, Judge of our Superior Court, Justice of the District Court of Appeal, and Presiding Justice, since October 4, 1926, of Division Two of the 2nd District Court of Appeal of this State; and yet, to all who had the privilege of his personal friendship, only "Lew" Works.

Lewis R. Works was intensely human—as a boy, young man, in his prime, as well as in years of maturity, he lived his day and generation, and his ambitious spirit caused him to engage in all the activities of his college or the community in which he lived.

Judge Works was a native of Indiana, born at Vevay in that State on December 28th, 1869—the son of John Downey Works and Alice (Banta) Works.

He came to San Diego, California, in 1887, was there admitted to the bar in 1892, becoming at once associated in the practice of the law with his distinguished father, a former justice of our Supreme Court, and later a United States Senator from California.

In 1889 he served one term in our California Legislature as Assemblyman from the San Diego district.

In 1901 he moved to Los Angeles and became a member of the firm of Works, Lee & Works.

Commencing in 1907 he served the City of Los Angeles as First Assistant City Attorney under City Attorney Hon. Leslie R. Hewitt; and he was one of the members of the Los Angeles Charter Revision Committee of 1911-12, which framed a charter for Los Angeles, also serving as Chairman of the County Board of Freeholders, which framed the Los Angeles County Charter.

In 1913 he was appointed to the Superior Bench of Los Angeles County, where he served until 1921 with conspicuous ability.

In 1921, more than a decade ago, he was elected Associate Justice of that Division of the District Court of Appeal, where, as such Associate Justice and later as Presiding Justice, he rendered signal and distinguished service up to the time of his all too early death.

He was an author of no mean ability, dealing principally with historical and legal subjects. Among his many most interesting essays was that dealing with the trial of Jesus Christ from the legal standpoint.

We cannot but feel that, although Mr. Justice Works was taken from us all too soon, nevertheless, he lived a long, interesting and useful life, serving his State and fellow men with distinction and ability, and illuminating his pathway with the gracious sunshine of a genial, gentle, loving and much loved personality.

THEREFORE, BE IT RESOLVED: That in the death of Hon. Lewis R. Works the members of the legal profession have lost a dear brother; that the bench has lost one of its most useful members; that the community has lost a lifelong friend of great civic usefulness; and that his host of friends have lost a beloved champion; and,

BE IT FURTHER RESOLVED: That this memorial be presented to the District Court of Appeal of the State of California for the Second Appellate District; that a copy of it be spread upon the minutes of the Los Angeles Bar Association, and that a copy of it be transmitted with our deepest sympathy to the members of the family of the deceased.

W. H. ANDERSON, Chairman;
ROBERT P. JENNINGS,
JEFFERSON P. CHANDLER,
T. W. ROBINSON,

Committee.

Board of Trustees Endorse A. B. A. Plan

RESOLVED by the Board of Trustees of the Los Angeles Bar Association that this Board does hereby approve the purposes of the National Bar program, adopted by the conference of Bar Association officers at Grand Rapids, Michigan, August 29th, 1933, and agrees that this Association shall take part in the movement for co-ordination of the Bar under said program.

RESOLVED FURTHER, that this Board formally adopts, for co-operative work by this Association under said program, the four subjects selected by the American Bar Association for the current year, to-wit:

1. Criminal law and its enforcement.
2. Legal education and qualifications for admission to the Bar.
3. Unauthorized practice of law.
4. Selection of judges and Bar activities in connection therewith.

RESOLVED FURTHER, that the subject of the National Bar program and the presentation of the same to the proper committees of this Association are hereby referred to the committee on co-ordination of committee work.

ATTENTION TO EMPLOYERS!

HELP YOUR FELLOW MEMBERS! The office of the Association has on file applications for employment classified as follows:

Experienced practitioners seeking salaried positions;

Attorneys recently admitted seeking salaried positions;

Experienced and unexperienced attorneys who are willing to render services for desk space;

Attorneys seeking working arrangements that will permit of their taking care of their own clients;

Legal Secretaries and Stenographers.

Telephone Vandike 5701 and Vandike 9992.

Your communications are kept confidential.

STATE BAR TAKES DECISIVE ACTION

(Continued from Page 51)

ferring and conveying property to defendant upon trusts, so that the income thereof may be divided between the trustor and members of his family during his lifetime, and after his death may pass to his heirs at law, or others, for one or more generations; methods of avoiding probate, by transferring and conveying property to defendant in trust instead of disposing of property by last will and testament, methods of preventing the contest of wills by heirs at law, by insertion therein of provisions disinheriting any person filing a contest; methods of transferring and conveying property upon trusts to defendant, so as to place said property beyond any process or law that might be invoked by creditors to collect money due them; rules governing property rights of unmarried women; effect of marriage on women's property rights; rights of husband or his creditors to take wife's separate property; rights of contract between husband and wife; rights of husband to manage and control community property; effect of death or divorce upon community property; incidents of joint tenancy and the legal complications incident to the unwise use of joint tenancy; differences between guardianship of the person and estate of minors or incompetents, and rules governing both types of guardianship; rules governing transfer and conveyance of property upon trusts; the Rule against Perpetuities; the law governing restraints upon alienation; differences between mortgages and trust deeds given as security; rules governing foreclosure of mortgages and trust deeds given as security, and methods of foreclosing trust deeds, and time required therefor; rules governing deficiencies and deficiency judgments on foreclosures of mortgages and trust deeds; nature and requisites of contracts for the sale of real property; nature and requisites of contracts for the sale in bulk of personal property used in carrying on a trade or business; nature and requisites of escrows; use of escrows as substitute for, and/or for the purpose of carrying out, agreements for purchase or sale or exchange or encumbrance or other transfer of real property, or for sale, assignment or other transfer of stock in trade, in bulk, other than in the ordinary course of trade, or in the regular course of business, or for the sale, transfer, assignment or encumbrance of fixtures or store equipment of a baker, cafe or restaurant owner, garage owner, machinist, or retail or wholesale merchant.

"(c) Has planned and now plans for third persons wills to suit their particular needs, either with or without creating trusts naming defendant as trustee, (known and hereinafter sometimes referred to as 'Testamentary Trusts'), in which defendant's only interest has been, and now is, to be named as executor and/or trustee under 'Testamentary Trusts' created thereby, and in that behalf defendant has selected and now selects legal devices and expedients to enable such third persons to do one or more or all of the following: to bequeath property and provide

for its disposition on death in a manner different from that provided by the laws of intestate succession of California; to induce heirs at law, bequeathed or devised less than the shares they would take by intestate succession, not to contest such wills, by disinheriting them in the event they file contests; to create 'Testamentary Trusts'; and when such third persons are male married persons, to enable them to obtain from their wives waivers of the rights of the latter under the laws of community property of California.

"In connection with 'Testamentary Trusts' created, or to be created, by said wills, defendant has suggested and furnished, and now suggests and furnishes, to such third persons drafts of clauses designed to accomplish one or more, or all, of the following: to vest title to the property affected thereby in defendant as trustee for the longest time permitted by the Rule against Perpetuities and the law relating to restraints upon alienation; to vest in defendant both the legal and equitable title to said property and leave to the beneficiaries no estate or interest therein but only the right to enforce said trusts; to avoid probate administration of said property for one or more generations; to avoid payment of state inheritance taxes and federal estate taxes upon said property, and federal income taxes upon the income therefrom; to prevent creditors from enforcing claims against such property, but authorizing defendant to make loans to itself as trustee and giving it a first lien on all of said property for loans so made by it; to authorize defendant to accumulate income and to invest principal and income, if accumulated, in any property (including participation certificates in mortgages owned by defendant) whether or not permissible by law for investment of trust funds; to authorize defendant to have, respecting bonds, shares of stock and other securities, all the rights, powers and privileges of (but as respects defendant in its individual capacity none of the liabilities of) an owner; to provide, in the event income should not be sufficient to furnish the beneficiary or beneficiaries reasonable support, care or comfort, that defendant might, in its discretion, pay beneficiaries so much of the principal as defendant might deem advisable; to confer various other discretions upon defendant, and provide that unless specially limited all discretions conferred on defendant should be absolute and uncontrolled, and their exercise conclusive upon all persons interested in the trust or trust estate; to authorize defendant to lease the trust estate, or any part thereof, for terms within or extending beyond the duration of the trusts created; to authorize defendant to determine, in its discretion, what is principal of the trust estate, gross income or net distributable income therefrom; to provide that defendant might make payment, applicable to the use of any minor beneficiary, to the parent or guardian of the person of such minor; to provide that any successor and/or assign of defendant, whether by way of consolidation, merger, or transfer of trust

business, conversion into a state bank or otherwise, should ipso facto succeed as trustee, with like effect as though originally named as trustee in such instrument.

"(d) Has drafted and now drafts for third persons instruments in writing to suit their particular needs, in which defendant's only interest has been, and is, to be named as trustee or escrow holder therein. Said instruments have been and are designated by defendant and herein sometimes referred to as 'Living Trusts', 'Unfunded Life Insurance Trusts with Privilege of Adding Other Property', 'Unfunded Straight Life Insurance Trusts', 'Partnership Insurance Trusts', 'Close Corporation Insurance Trusts', 'Real Estate Subdivision Trusts', 'Deeds of Trust' and 'Escrow Instructions.'

"The practice of law by defendant, as herein alleged, has a tendency to, and unless restrained and enjoined as herein prayed will, result in a legal profession composed largely of corporation employees, including employees of defendant, engaged in specialized fields, not skilled in general practice and unable to give disinterested advice to clients or draw documents for them containing adequate safeguards, and subject to the orders of, and answerable to, boards of directors and officers of

banking and other corporations, who themselves are laymen and concerned chiefly in making money and not in rendering professional service; in lay persons, including employees of defendant, unskilled in the law, habitually and customarily giving legal advice and counsel and drafting legal documents covering the whole range of the law of conveyancing, taxation and testamentary practice; in clients being habitually and customarily solicited by such lay persons and banking and other corporations, including defendant; in such lay persons and banking and other corporations, including defendant, habitually and customarily giving legal advice and counsel to, and drafting legal instruments for, clients without first being consulted by such clients in reference thereto; in confidential communications being made by clients to lay persons and banking and other corporations, including defendant, without the latter being privileged from divulging such confidential communications; in commercializing and destroying the independence of the legal profession and impairing the ability of banking and other corporations, in particular the defendant, to carry on the business for which they are chartered."

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